



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 2468-99

31 March 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 29 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The record provided for the Board's review were incomplete. However, the Board found that you enlisted in the Marine Corps on 10 April 1967 for four years at age 17. The record reflects that you were advanced to LCPL (E-3) and served without incident until 10 January 1968 when you received nonjudicial punishment (NJP) for an 11 hour period of unauthorized absence (UA). You were assigned to duty in Okinawa in April 1968 and transferred back to the United States in May 1969.

The record further reflects that after the foregoing NJP you served for 19 months without incident. However, during the five month period from September 1969 to January 1970, you received six NJPs for two periods of UA totalling about four days, a uniform violation, three instances of failure to obey a lawful order, two instances of breaking restriction, and reckless driving.

On 3 March 1970 you were notified that discharge was being recommended by reason of unfitness due to frequent involvement of a discreditable nature with military authorities. You were advised of your procedural rights, declined to consult with counsel, and waived your right to present your case to an administrative discharge board (ADB). Thereafter the commanding officer (CO) recommended an undesirable discharge by reason of unfitness. In his recommendation, the CO noted that you were eligible to wear the Vietnam Service Medal and the Combat Action Ribbon. However, the record contains no other evidence that you served in Vietnam. A staff judge advocate reviewed the proceedings and found them sufficient in law and fact. On 2 April 1970 the discharge authority directed an undesirable discharge by reason of unfitness. You were so discharged on 10 April 1970.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, Vietnam service, and the fact that it has been nearly 30 years since you were discharged. The Board noted that you provide a litany of contentions to the effect you served in combat; your NJPs were for minor isolated offenses; your ability to serve was impaired by psychiatric and personal problems and a deprived family background; you had difficulty in adjusting to stateside duty; the discharge was too harsh compared to current standards; and that you have been a good citizen since discharge. However, your contentions are unsupported without any elaboration on your part or evidence submitted with your application. The Board concluded that the foregoing factors and contentions were insufficient to warrant recharacterization of your discharge given your record of seven NJPs in 36 months of service. The Board noted the aggravating factor that you waived an ADB, the one opportunity you had to show why you should be retained or discharged under honorable conditions. A Federal Bureau of Investigation report obtained by the Board noted that your post-service conduct has been marred by convictions for breaking and entering, disorderly conduct, assaulting a police officer, and selling drugs. The Board concluded that the reason for discharge and characterization was proper and no changes are warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director